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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,422	02/05/2007	Hirokazu So	0074/071001	9486

7590 02/01/2011
Randolph A. Smith
Smith Patent Office
1901 Pennsylvania Ave., N.W.
Suite 901
Washington, DC 20006-3433

EXAMINER

BERNARD, DANIEL J

ART UNIT	PAPER NUMBER
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2189

MAIL DATE	DELIVERY MODE
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02/01/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/576,422	Applicant(s) SO ET AL.	
	Examiner Daniel J. Bernard	Art Unit 2189	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 January 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 18 January 2011. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1, 11, 12, and 14.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☒ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). 11/22/2010
 13. ☐ Other: _____.

/Reginald G. Bragdon/
Supervisory Patent Examiner, Art Unit 2189

/D. J. B./
Examiner, Art Unit 2189

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding Applicant's remarks filed with the notice of appeal, the remarks have been thoroughly considered, but they are not persuasive. Specifically, regarding Applicants remarks with respect to a process step of determining whether or not data of the nonvolatile recording area in the recording medium has been updated after the data was recorded by determining whether or not update information of a field in the recording area read from the recording medium corresponds to update information in the update notification part read from the recording medium, the examiner respectfully submits, as previously noted, that Komori would have reasonably suggested the claimed step in question for the following reasons: given that Komori had already presented the nonvolatile memory with data recording area as previously noted, and incorporating the reasons for rejection set forth in the previous action, it would not be unreasonable to infer that Komori's reading a rewrite count (update information) and comparing it to a reference value to determine whether or not data of the recording area had been updated, and further that Yoshino, in combination with Komori, would have reasonably suggested the step of determining whether or not data of the nonvolatile recording area in the recording medium has been updated after the data was recorded by determining whether or not update information of a field in the recording area read from the recording medium corresponds to update information in the update notification part read from the recording medium, given that Yoshino directly compares equivalent update information fields of corresponding content (data) records, and incorporating the reasons for rejection set forth herein and in the previous action, the teachings of Yoshino would thus cover any shortfall in the teachings of Komori, taken in combination as a whole. Thus, for at least the foregoing reasons, it is believed that the record establishes a prima facie case that the combined teachings of the art of record would have suggested the claimed subject matter to those of ordinary skill in the art.

It is noted that any new issues raised may require further search and/or consideration.

Applicant's notice of appeal is noted. The information disclosure statement (IDS) submitted on 22 November 2010 was filed after the mailing date of the final rejection on 16 July 2010. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.